



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/160032

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 18, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on September 25, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's application for MA.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Virginia Bhabrier

Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner applied for Medical Assistance (MA) on April 1, 2014.

3. On July 29, 2014 the agency denied Petitioner's application because she was over the \$2000 asset limit. Petitioner had a life insurance policy with a cash value of \$8,587.67.
4. On August 21, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing. A hearing was scheduled for September 25, 2014.
5. On September 23, 2014 Petitioner's daughter called the ALJ, and informed the ALJ that Petitioner had passed away at 7 a.m. that morning.
6. On September 23, 2014 a hearing was held. Petitioner's daughter acted on Petitioner's behalf.
7. Although the family's intention was to put Petitioner's life insurance policy into an irrevocable burial trust, the family did not do that prior to Petitioner's death.

### **DISCUSSION**

To qualify for MA, a person must meet both non-financial and financial requirements. Wis. Stat. §49.47(4). At application, the agency must request income verification. *Medicaid Eligibility Handbook*, (MEH), §20.3.8, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. The financial requirements include an income and asset limit. The asset limit for MA is \$2000.

In this case the only issue is the asset limit. At the time Petitioner applied for the MA program Petitioner had a life insurance policy with a cash value of \$8,587.67. Petitioner and her family intended to assign this life insurance policy to an irrevocable burial trust. Sadly Petitioner passed away on September 23, 2014. The family had not created this irrevocable burial trust prior to Petitioner's death. The family nonetheless planned to use the life insurance policy to cover the cost of the funeral and burial. Petitioner's daughter testified that the policy is not enough to cover the entire cost of the funeral and burial. Petitioner's daughter was very credible.

There was some discussion regarding a home also being an asset. At the hearing the agency agreed that there was a reverse mortgage on the home, and that the home was not counted as an asset. Nonetheless, Petitioner's life insurance policy puts her over the \$2,000 asset limit for MA.

### **CONCLUSIONS OF LAW**

The agency correctly denied Petitioner's application for MA.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

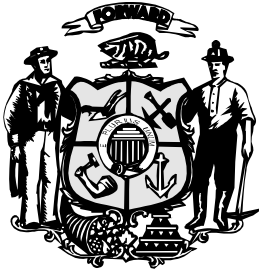
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 2nd day of October, 2014

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 2, 2014.

Racine County Department of Human Services  
Division of Health Care Access and Accountability